

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF MONTANA

MARILYN PARKER,)	
Appellant)	
)	
vs.)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND ORDER
BOARD OF TRUSTEES,)	
YELLOWSTONE COUNTY ELEMENTARY)	
SCHOOL DISTRICT 7-70,)	
Respondent.)	

* * * * *

This matter arises from a notice of appeal by Appellant through her attorney filed on August 24, 1983, from the Findings of Facts, Conclusions of Law and Order, rendered July 19, 1983, by Flathead County Superintendent of Schools Wallace D. Vinnedge, sitting on behalf of H.C. (Buzz) Christianson, Yellowstone County Superintendent of Schools.

Both parties have submitted briefs in support of their positions and have presented oral argument before this State Superintendent. This State Superintendent, now being fully informed as to the record, briefs and matters contained therein and the law, makes these:

FINDINGS OF FACT

1. The Appellant, by and through her attorneys, Hilley and Loring, filed a notice of appeal with this State Superintendent, appealing a decision dated July 19, 1983 of the Findings of Fact, Conclusions of Law and

Order of the Flathead County Superintendent of Schools sitting in place of the Yellowstone County Superintendent of Schools.

2. The parties have submitted briefs in support of their positions.
3. The parties have requested and have conducted oral argument before the State Superintendent, and I have deemed this case submitted.
4. This State Superintendent herein adopts and incorporates as his findings, Findings of Facts established by the County Superintendent, 1 through 22, and herein adopts the same in these particular findings as being supported by the record on appeal.

From the foregoing Findings of Fact, the State Superintendent now draws these:

CONCLUSIONS OF LAW

1. This is a contested case before the State Superintendent of Public Instruction. Jurisdiction is in the State Superintendent of Public Instruction pursuant to Sections 20-3-107, 20-3-210, and 20-4-205 MCA.
2. Respondent school district gave timely notice of termination and non-renewal of tenured teacher's contract by certified mail to Appellant and has complied with Section 20-4-204(1) MCA.

3. Yellowstone County Superintendent of Schools, acting through his duly-appointed hearing officer, Wally Vinnedge, retained jurisdiction of this matter in the above hearing as provided in Sections 20-3-210 and 20-3-211, MCA.
4. Appellant administered corporal punishment to children in her fourth grade class without giving notice to the parent or guardian in cases where no open or flagrant defiance was exhibited by the children. Nor did the Appellant in this instance refer the matter properly to the school building principal for such action. This is in violation of Section 20-4-302 MCA.
5. Appellant was insubordinate in opposition to Respondent's both verbal and written instructions not to touch students either in friendship or because of discipline and, as such, had administered corporal punishment and other physical touching which has resulted in insubordination of clear directive from the school administration.
6. The decision of the County Superintendent was not erroneous as a matter of law and did not substantially prejudice the rights of Appellant.
7. Respondent properly terminated Appellant.
8. This State Superintendent affirms and adopts the County Superintendent's Conclusions of Law and all of the conclusions are supported by reliable, probative and substantial evidence on the whole record.



9. The County Superintendent's order should be affirmed.
From the foregoing Findings of Fact and Conclusions of
Law, the State Superintendent now enters his:

ORDER

1. The Findings of Fact, Conclusions of Law and Order
of the Flathead County Superintendent of Schools,
sitting in place of the Yellowstone County Super-
intendent of Schools, are affirmed.

DATED this 30th day of January, 1984.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF MONTANA

MARILYN PARKER,)
Appellant)
vs.)
BOARD OF TRUSTEES,)
YELLOWSTONE COUNTY ELEMEN-)
TARY SCHOOL DISTRICT 7-70,)
Respondent.)

MEMORANDUM OPINION
OSPI #54-83

* * * * *

This is an appeal by Marilyn Parker, hereinafter referred to as Appellant, from the Findings of Facts, Conclusions of Law and Order entered by Wallace D. Vinnedge, Flathead County Superintendent of Schools, sitting in place of the Yellowstone County Superintendent of Schools.

The County Superintendent affirmed the decision of the Board of Trustees, Yellowstone County Elementary School District 7-70, hereinafter referred to as Respondent, who had terminated the services of Appellant.

Appellant was present at the hearing and was represented by Emilie Loring. Respondent was represented by David Hoefer, from the Yellowstone County Attorney's office. Appellant filed a Notice of Appeal with the State Superintendent on August 5, 1983. Oral argument was held on November 29, 1983, and this State Superintendent deemed this case submitted on that date.

Appellant contends that: (1) the termination was untimely and (2) that she was terminated without cause and requests that the State Superintendent order the Board of Trustees to reinstate her to her former position.